

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	Case Nos.: 00-CE-5-SAL
)	01-CE-16-SAL
D'ARRIGO BROS. CO. OF)	02-CE-14-SAL
CALIFORNIA,)	04-CE-18-SAL
)	04-CE-18-1-SAL
Respondent,)	
and)	ORDER GRANTING GENERAL
)	COUNSEL'S APPLICATION FOR
UNITED FARM WORKERS OF)	SPECIAL PERMISSION TO APPEAL
AMERICA, AFL-CIO,)	RULING OF ADMINISTRATIVE
)	LAW JUDGE AND ORDER
Charging Party.)	GRANTING MOTION FOR
)	CONTINUANCE
)	
)	Admin. Order No. 2005- 2
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On April 14, 2005, General Counsel filed an application pursuant to section 20242 of the Board's regulations ¹ for special permission to appeal two oral rulings made April 12, 2005 by the Administrative Law Judge (ALJ) conducting the hearing in the above-entitled case. Specifically, General Counsel seeks review of the denial of its motion for a two-day continuance and of the ALJ's ruling setting a time limit for the examination of an adverse witness called by General Counsel. General Counsel's filing also includes a request for a one-week continuance, which has been referred to the Board by the Executive Secretary.

Both requests for a continuance are based on the need for time to review voluminous negotiation notes not provided by Respondent D'Arrigo Bros. Co. of

¹ The Board's regulations are codified at California Code of Regulations, Title 8 section 20100 *et seq.*

California until April 11, 2005. The failure to turn over the negotiation notes was the subject of a subpoena enforcement action by the Board. On October 1, 2004, the Monterey County Superior Court granted the Board's application for enforcement. However, there was subsequent confusion regarding the order after hearing, which resulted first in the issuance by the Superior Court of two orders, then the vacating of both. A subsequent hearing on the matter in the Superior Court was delayed until today's date, primarily by a request by Respondent and Charging Party United Farm Workers of America, AFL-CIO to take the matter off calendar pending ultimately unsuccessful settlement discussions.

PLEASE TAKE NOTICE that General Counsel's application for special permission to appeal the April 12, 2005 oral rulings by the ALJ is GRANTED with regard to the time limit on the examination of witness Geoffrey Gega. General Counsel shall be given the opportunity to continue the examination of Mr. Gega, subject to the ALJ's normative authority to control the conduct of the hearing, including the disallowance of irrelevant and cumulative testimony.

PLEASE TAKE FURTHER NOTICE that General Counsel's motion for a one-week continuance to review Respondent's negotiation notes is hereby GRANTED. The appeal of the denial of a two-day continuance is DENIED as moot.

FURTHER, PLEASE TAKE NOTICE the hearing previously set to resume on April 18, 2005 is now continued to April 25, 2005 and consecutive days thereafter until completed at the previously noticed time and location.

By Direction of the Board

Dated: April 15, 2005

J. ANTONIO BARBOSA
Executive Secretary, ALRB